

W.P.No.21729 of 2014

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.No.21729 of 2014

and

MP.No.1 of 2014

The Management,
S267 Attur Pudupet Primary Agricultural Co-operative Bank Limited,
Rep. by its President,
Pudupet, Attur Taluk, Salem District. ...Petitioner

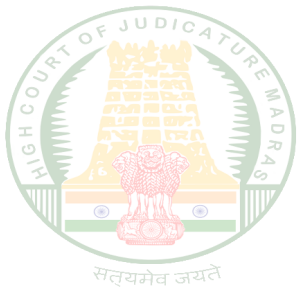
Vs.

1. The Labour Officer,
Labour Court,
Salem.
2. M.Sugumar ...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in I.D.No.671 of 2000 dated 29.05.2012 on the file of the first respondent herein and quash the same.

For Petitioner : Mr.R.Ramesh

For Respondents : R1 – Court
: Mr.R.M.D.Nasrullah, for R2



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ORDER

This Writ Petition has been filed seeking quashment of the order of the 1st respondent made in I.D.No.671 of 2000 dated 29.05.2012.

2. The case of the petitioner-management is that the 2nd respondent -workman was initially appointed as a Salesman in the petitioner management on 29.07.1978 and he later got promoted as Accountant on 31.08.1995 and was authorised to work in the crop loan section. While so, the 2nd respondent, by colluding with two other employees, created bogus documents and fraudulently sanctioned fictitious fixed deposit loans, despite being authorized only for crop loans. As statutory enquiry report under Section 81 of Tamil Nadu Co-operative Societies Act, 1983, confirmed the misappropriation committed by the 2nd respondent to the tune of Rs.3,24,000/-, the 2nd respondent was terminated from service on 03.12.1999, after conducting appropriate enquiry by following due process of law. Thereafter, the 2nd respondent initiated conciliation proceeding before the Labour Officer, Salem and as the same ended in failure, an Industrial Dispute in I.D.No.671 of 2000 came to be raised and the same was allowed by the 1st respondent, vide order dated



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09.12.2005 by setting aside the order of dismissal dated 03.12.1999.

Challenging the same, the petitioner filed a Writ Petition before this Court in W.P.No.23584 of 2007 and this Court, vide order dated 08.06.2010 allowed the said Writ petition and remanded the matter back to the 1st respondent. Even then, the 1st respondent, vide order dated 29.05.2012, allowed the said dispute and directed the petitioner to reinstate the 2nd respondent with 50% back wages. Challenging the same, the petitioner has filed this writ petition.

3. Learned counsel for the petitioner submitted that, admittedly, the 2nd respondent was authorised to work in the crop loan section, however, by colluding with one Sugumaran, Cashier and one T.Sakthivel, in-charge clerk, created false documents and created fictitious fixed deposit loans relating to Loan Nos.A-502, A-617, A-838 & A-1058 and misappropriated a sum of Rs.3,24,000/- and on 31.05.1998, the 2nd respondent sanctioned the Fixed Deposit Loan No.A-838 for a sum of Rs.68,000/- in the name of one Sekar, for which he was not authorized to function as authorised officer and thereby, the petitioner terminated the services of the 2nd respondent. However,



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without considering any of the above said facts, the 1st respondent-labour court, ordered for reinstatement that too with 50% backwages, which is wholly unsustainable. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing on behalf of the 2nd respondent submitted that, as per RW1, the only allegation as against the 2nd respondent is that, though the 2nd respondent was only in charge of Crop loan, however, he sanctioned a Fixed Deposit Loan No.A-838 for a sum of Rs.68,000/- in favour of one Sekar. While so, implicating the 2nd respondent for other alleged Fixed deposit loan sanctions/transactions is not sustainable. The crux of the allegation made by the petitioner management as against the 2nd respondent pertains to sanction of loan in favour of the said Sekar. However, the petitioner management had not examined the said Sekar either during the domestic enquiry or before the 1st respondent/Labour court and the said Sekar was examined only during Section 81 enquiry, which will not bind on the Labour court and the petitioner had miserably failed to prove before the Labour Court that the 2nd respondent had colluded with two others and misappropriated a sum of Rs.3,24,000/-. Thereby, the tribunal, after careful consideration of the



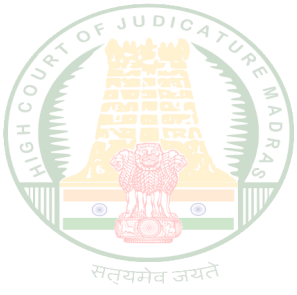
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material documents placed before it, had ordered for reinstatement with 50% backwages, vide impugned order, which need not be interfered with. Accordingly, he prayed for dismissal of this Writ petition.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. When the matter was taken up for hearing, this Court, considering the issue involved and the passage of time from the date on which the workman was dismissed from service, as about three decades have passed since the order of dismissal, had suggested that the matter may be settled by the parties by paying a consolidated amount, as no useful purpose would be served in continuing the litigation, as by now the workman would have crossed the age of superannuation and he having not been in service, on the basis of “no work no pay” would not be entitled for backwages and cannot also be reinstated in view of his age of superannuation and all through these years, the workman would not have remained unemployed, as he would definitely have to have eked his livelihood by being employed elsewhere. However, the learned counsel



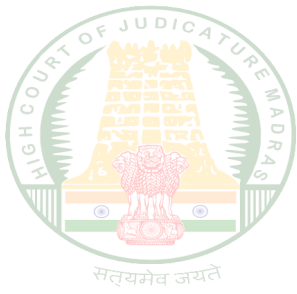
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appearing for the parties were not inclined to come for a settlement and, they, did not consent to an order for settlement, as proposed by this Court.

7. Though consent has not been given by the parties, this Court, sitting under Article 226 of the Constitution, is required to render substantial justice. In view of the facts narrated above and the sequence of events that have passed through three decades, when the parties have been fighting out their rights before the judicial forum, this Court, in exercise of its powers, is inclined to direct the petitioner Management to pay a lumpsum towards full quit as settlement.

8. Accordingly, this Court without interfering with the impugned order of the Labour Court dated 29.05.2012 made in I.D.No.671 of 2000, directs the petitioner-management to pay a sum of Rs.1,00,000/-(Rupees One Lakh only) as settlement, in full quit in favour of the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order.



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9. With the above direction, this Writ Petition stands disposed of.

No costs. Consequently, the connected Miscellaneous petition is closed.

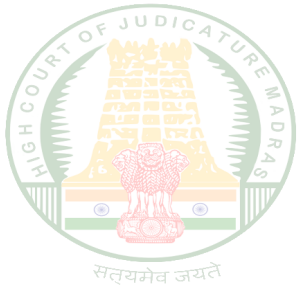
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skt

Index	: Yes / No
Speaking order	: Yes / No
NCC	: Yes / No

To

The Labour Officer,
Labour Court,
Salem.



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M.DHANDAPANI, J.

skt

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